

OFFICE OF THE ATTORNEY GENERAL



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ATTORNEY GENERAL
STATE OF ALABAMA

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Honorable Doris Neese
Administrator
City of Montgomery Employees'
Retirement System
P. O. Box 1111
Montgomery, AL 36101-1111

Employees, Employers,
Employment - Retirement Systems
- Creditable Service

Person employed by City may
purchase credit for time spent
in earlier employment with
city/county personnel depart-
ment, if approved by Board of
Trustees of the Employees'
Retirement System of the City
of Montgomery.

Dear Ms. Neese:

This opinion is issued in response to the request of the
Board of Trustees, Employees' Retirement System of the City of
Montgomery, for an opinion of the Attorney General.

QUESTION

Your question is:

Can time employed with the City/County
Personnel Department be purchased by person
who later becomes employed by the City?

FACTS AND ANALYSIS

Your request presents the following facts:

On October 13, 1972, John Baker was employed as personnel technician with the Montgomery City/County Personnel Department. Mr. Baker was technically an employee of the County and was a member of the County Retirement System. The City/County Personnel Department is funded approximately 80% by the City and 20% by the County. On December 29, 1975, Mr. Baker was appointed City Clerk and has been so employed ever since that time. He would now like to purchase his retirement time earned while employed with the Personnel Department. The City of Montgomery Retirement Act states at Appendix 1, Chapter 3, Article 1, Division 3, Section 2 that "the employees of any water works board or other board, public corporation or commission created or appointed by the governing authority of any such city, who were or are at the time of the creation or appointment of any such water works board or other board, public corporation or commission, employees of any such city paid in part or in whole, directly or indirectly, from funds contributed or appropriated by any such city, shall continue to be covered and protected by and entitled to the benefits of any person or retirement system." The City/County Personnel Board was created by Act No. 2280, Regular Session 1971.

We note that a similar question was presented to the Attorney General in 1959. In an opinion to Honorable Earl D. James, Mayor, City of Montgomery, dated December 9, 1959, this office stated that it is the duty of the Board of Trustees of the Retirement System to determine who is eligible to receive retirement benefits under that system. In order to assist the Board in making its determination with regard to Mr. Baker, we would note that there appears to be ample precedent on which to

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permit Mr. Baker to purchase credit for time served with the Montgomery City/County Personnel Department. See Minutes of Board of Trustees of the Retirement System under date of January 11, 1960; November 18, 1963; July 3, 1965; and October 26, 1965.

CONCLUSION

It is the opinion of this office that it is within the authority of the Board of Trustees of the Employees' Retirement System of the City of Montgomery to permit credit for time employed with the City/County Personnel Department to be purchased by a person who later becomes employed by the City.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General

By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

JE/CJS/jho

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